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REPORT

OF THE

COMMITTEE ON CLAIMS,

On memorial and accompanying papers of Major Gaspar Tochman.

The Committee on Claims, to whom was referred the memorial of Major Gaspar Tochman, formerly of the Polish army, praying relief from losses incurred by him in raising troops for the Confederate States military service, beg leave to report that they have had the same under consideration, and recommend the adoption of the following preamble and resolutions, to-wit:

Joint resolution of thanks to, and for the relief of, Major Gaspar Tochman, formerly of the Polish army.

WHEREAS, Gaspar Tochman, formerly major in the Polish army, in the early part of the summer of 1861 was authorized by the then Secretary of War, Hon. L. P. Walker, to raise certain troops for the Confederate States military service, which troops, by the terms of said authority, were to be organized into a brigade: *And whereas*, said Major Gaspar Tochman, acting under said authority, did actually raise a considerable number of troops, to-wit: seventeen hundred men, exclusive of officers, of whom fourteen hundred and fifteen were of foreign birth: *And whereas*, it appears that the said Secretary, in the authority aforesaid, did not intend to promise said Major Gaspar Tochman the command of the brigade aforesaid: *And whereas*, the troops raised by said Major Gaspar Tochman were actually received into the Confederate States military service in two regiments, the command of one of which was tendered to Major Gaspar Tochman as colonel: *And whereas*, said Major Gaspar Tochman, considering that he had been authorized to raise a brigade, under an agreement that he was to have the command thereof as brigadier, and having so represented to those associated with him in raising said troops, and considering that he could not, consistently with his honor and his representations to his associates, accept a less command than that of brigadier, did decline to receive the said tender of a colonelcy: *And whereas*, it appears that the said Major Gaspar Tochman acted throughout in

entire accordance with the highest integrity and honor: *And whereas*, this Congress highly appreciates said Major Gaspar Tochman's devotion to the cause of freedom and his active and useful exertions in behalf of the cause of the Confederate States of America: *And whereas*, it appears that said Major Gaspar Tochman was at considerable expense in raising said troops, to-wit: the sum of seven thousand five hundred and seventy-five dollars, of which he has been reimbursed only the sum of one thousand one hundred and five dollars and three cents; therefore—

1. *Resolved*, That the thanks of Congress and of the Confederate States of America are due, and are hereby cordially tendered to Major Gaspar Tochman, formerly of the Polish army, for his zealous and useful efforts in behalf of Southern independence.

2. *Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to pay to Major Gaspar Tochman, out of any money in the Treasury not otherwise appropriated, the sum of seven thousand five hundred and twenty-five dollars, this being the amount he expended in raising troops for the Confederate States military service, less the sum of one thousand one hundred and five dollars and three cents heretofore paid him.

Respectfully submitted.

JAMES FARROW,
From Committee.

#277

CASE OF GENERAL TOCHMAN.

GENERAL TOCHMAN TO HON. W. N. H. SMITH.

RICHMOND, V.A., May 14, 1864.

Hon. W. N. H. SMITH,

Chairman of Com. on Claims of House of Representatives, C. S. C.:

DEAR SIR: Being informed that the members of the Committee, over which you preside, manifested their desire to have collected some copies of my memorial, presented to the preceding Congress, to obtain relief for the grievances arising from the Executive having taken from me the command of the Polish brigade, and dissolved it without cause, I have distributed amongst them, personally, or left at their respective residences, the few copies thereof I had preserved for my own use, together with the copies of such papers as were, in the course of investigation, printed by order of the House of Representatives of the former Congress.

But I respectfully submit, for the consideration of your Committee, that the old memorial and the papers accompanying it do not contain the evidence and the legal points elicited by the proceedings of the Committee on Claims of the former Congress, which accompany and make part of the new memorial presented to this Congress and referred to your Committee, for they have not been printed yet—the Committee on Claims of the former Congress having not reported them for want of time, as stated in the new memorial.

As this evidence and legal points are material in the case before your Committee, as they have not been laid before the members of the former Congress, and as the newly elected members of this Congress are wholly unacquainted with the merits of the case before your Committee, and there is no possibility of procuring for them the requisite number of copies of the old memorial, I beg your Committee that the new memorial now before you, which is very short and concise, covering scarcely one-sixth part of the length of the old memorial and the accompanying papers, may be printed, either before your Committee takes final action upon it or conjointly with their report on the case.

The case being of the utmost importance to one who spared no sacrifice for the cause of the Confederate States, and, as it seems to me, that the Constitution would require in this case a vote of two-thirds of the members (it involving the appropriation of money,) it is, therefore, hoped that your Committee will relieve my anxiety in this respect by recommending to the House that the new memorial may be ordered to be printed.

With the highest respect, I have the honor, sir, to be,

Your most obedient servant,

G. TOCHMAN.

GENERAL TOCHMAN TO HON. JAMES FARROW.

RICHMOND, VA., May 19, 1864.

Hon. JAMES FARROW,

Member of Congress:

DEAR SIR: It was only after I left you, last evening, that I learned that the resolution of the Senate to adjourn on the last of this month has been concurred in by the House. It will be, of course, impossible now to have my case carried through during this session, unless this resolution is rescinded. My poor country must, then, dispense again with my services for many months, for I cannot leave this new world for the old before I am put right as to my character and integrity by some legislative action. Under these, so distressing to me, circumstances, I appeal to your sense of justice, and respectfully beg you to report and urge the Committee that, whatever may be their conclusion they shall arrive at in my case, it should be reported to the House before the adjournment of Congress, to have it printed, together with my memorial, and put on its Calendar for action at the next session. I respectfully beg them and you to accede to this, my request, and to accept the assurance of the highest consideration, with which

I have the honor, sir, to be, your most obedient servant,
G. TOCHMAN.

M E M O R I A L.

To the Honorable the Senate and House of Representatives of the Confederate States of America, in Congress assembled :

This memorial is respectfully presented to the honorable the Congress, to obtain relief and redress in a case which, though it seemingly appears to be of a private character, essentially involves the public plighted faith, its foreign policy, and the national honor, to which I appeal.

In 1861, when the hostilities of this war commenced, I left Washington, D. C., where I then resided, repaired to Montgomery, Alabama, and tendered my services to the Confederate States, which his Excellency the President accepted by endorsing on the bundle of my papers, being on file in the Department of War: "*Appointed Colonel, May 11, 1861.*"

Subsequently, the Secretary of War, under the special instructions of the President, stipulated with me for raising a regiment of troops, to be designated "*the Polish regiment.*" And, when this proposition was accepted, the following authority, addressed to me as the Major, (which rank I held in the Polish army during the war of 1830-'31,) was issued and handed to me personally by the Secretary:

*"CONFEDERATE STATES OF AMERICA, WAR DEPARTMENT, }
"Montgomery, May 20, 1861. }*

"To Major GASPAR TOCHMAN:

"SIR: You are authorized to raise ten companies, to be composed of persons of foreign birth, and to enlist for the war, with the privilege, on the part of the privates, to withdraw at the end of three years. Or, should you find it practicable, you are authorized to raise twenty companies, which would be organized into a brigade. Such officers of the army as may be necessary will be detailed at such points within the Confederacy as you may indicate, to enlist the men. Or you are authorized to raise two regiments for the war, to be received with the officers as far as may be acceptable to the Confederate Government.

"Very respectfully, your obedient servant,

*"L. P. WALKER,
"Secretary of War."*

This enlarged authority was accepted with the mutual understanding that I had to raise these foreign troops for my own command, and

that my *regular* commission was to be issued and handed to me, after I raised my troops, in the rank corresponding to their number.

The following letter, addressed to the Secretary of War the next day after the date of that authority, proves these facts, either directly or by legal inducions :

“ MONTGOMERY, ALABAMA, May 21, 1861.

“ Hon. L. P. WALKER,

“ *Secretary of War:*

“ SIR : Acknowledging the receipt of your order, bearing date of “ May 20, 1861,” which authorizes me to raise ten or twenty companies, to be composed of persons of foreign birth, enlisted for the war—with the privilege on the part of the privates to withdraw at the end of three years—I have the honor, most respectfully, to submit :

“ 1. That the Hon. A. Stephens, Vice President, in the last interview with me, stated that I might probably be allowed to enlist in my “ foreign regiment or regiments,” both natives and foreigners ; and, *as there are many natives who have already offered to serve under my command*, I beg you to remove the restriction confining me to enlisting only the persons of foreign birth.

“ 2. Your order, under the regulations of the recruiting service, must necessarily be construed as directing me to superintend the recruiting of the companies to be hereafter formed into regiments and a brigade ; but it leaves no evidence on *the record of the Department of War that the regiment or regiments so raised by me, when completed and mustered into service, will have to remain and shall remain under my command, with such officers as may assist me in this undertaking.* Such assurance in my hands would, it is submitted, help me in raising the men.

“ 3. The Adjutant General stated to me yesterday that it would be impossible for him, at this time, to detail the number of officers of the Confederate States army required for my recruiting service ; he said that he could not detail now more than two or three officers. I would beg you, then, to advise with the President and authorize me to employ special agents, to be sent where I may deem proper with the instructions, and for the purpose of procuring and sending men to the places of rendezvous, where I may locate these two or three officers of the Confederate States army, to receive the enlistments of the recruits.

“ This plan of recruiting would of course require a special fund ; but, if authorized, it would enable me to raise the requisite number of men in a very short time, and at less than one-half of the expense which the usual mode of recruiting requires.

“ I have the honor, sir, to be your most obedient servant,

“ G. TOCHMAN.”

The requisite authority to accept the services of such natives as might desire to be under my command was granted to me by the Secretary of War verbally. The other parts of my requests were not

answered; but these requests are briefly endorsed by the Secretary himself, or his assistant, on the back of this letter, which is on file in the Department of War, and has been recorded in the record book of that department; it constitutes, therefore, a legal evidence as to all the facts contained in that letter, and as to all such as are deducible from its contents.

Relying upon the faith of this arrangement, I established my headquarters in New Orleans, Louisiana, and issued a proclamation *to the foreigners*, defining the principles which induced me to take part in this war, with the South, and calling upon *them* to unite with me in defence of the Confederate States. (Exhibit No. 1.)

This proclamation was responded to with such promptness that in about six weeks from its date I raised and reported, ready for the field, two regiments, under the designation of the "First and Second regiments of the Polish brigade, C. S. P. Army," seventeen hundred men strong in the ranks, *exclusive of officers*; in which number there were fourteen hundred and fifteen foreigners or "persons of foreign birth" in the ranks, and four amongst the officers. (Exhibit No. 2.)

I will not tax the time of the honorable the Congress, with the recital of the difficulties I experienced on the part of the selfish politicians, who were opposed to my undertaking, at New Orleans, when I was raising my troops, and after I raised them, when I came to Richmond to obtain my orders and *regular* commissions for my officers and myself; for I am sure, had they foreseen that this war would assume the proportions to which it has expanded, their patriotism would have predominated over their short-sighted policy in destroying, in its bud, an organization which was best calculated to gain and secure to the cause of the Confederate States, the physical and moral aid of foreigners, both here and abroad.

The gist of the grievances I submit to the consideration of this honorable the Congress, is, then, only that the command of the troops I raised was denied to me; a colonelcy of only one of my regiments was offered me, and I was requested to leave the other regiment, in my camp of instruction, at the disposal of the President.

As a submission to these propositions after I had raised my brigade of which each officer and soldier considered me to be his brigadier general, would have subjected me to the suspicion of being a pretender, by assuming to raise that brigade without authority, or, that I lost its command by reason of the commission of some misdemeanor. a suspicion, in either case, more severe in its moral effect to a veteran soldier than would be the loss of life, there remained, therefore, no other alternative for me but the rejection of these propositions, and the subsequent, thus forced upon me, withdrawal from serving that cause, to defend which, I have sacrificed my property left in the United States; abandoned there my legal profession and other prospects, and exposed my wife, a Polish lady by birth, to a long imprisonment in Washington, D. C., where, though now free, she is forced to remain still, separated from me, which the evidence published on page first of the memorial, presented to the preceding Congress, in January, 1863, proves.

The following is the order by which my brigade was dissolved:

“ADJUTANT AND INSPECTOR GENERAL'S OFFICE, }
Richmond, August 24, 1861. }

“SPECIAL ORDER }

No. 133. }

* * * * *

“XIII. The designation of the ‘First Polish regiment’ will hereafter be the thirteenth regiment of Louisiana volunteers, Confederate troops.

“By command of the Secretary of War,

“JOHN WITHERS,
“Assistant Adjutant General.”

The second Polish regiment of my brigade was, by a similar order, designated the third battalion, and subsequently the fifteenth regiment of Louisiana volunteers, Confederate troops.

It is respectfully submitted, that *there is no law in existence*, that would warrant such change of the original organization of any troops of the provisional army of the Confederate States. It was therefore alleged by the Executive, in excuse for this unauthorized measure, that I had to raise my troops at the north or abroad, and when it was shown that this allegation could not stand the test of the interpretation of the authority I accepted, and that the official correspondence I held with the Secretary of War during the organization of my troops, refutes it too, I was informed that the Secretary of War had no authority to promise me the commission of brigadier.

As this last assertion comes from the President himself, its truth cannot be doubted; but neither the moral nor the forensic law warrants punishing me by withholding my regular commission, because of the Secretary's fault in exceeding his authority, when I had stipulated with him *bona fide*, and knew nothing of the extent of the instructions the President gave him. It is submitted that were the rule so unjust to prevail as a guide of the Executive actions, it would subvert the whole fabric of any Government whatsoever.

The following is my official correspondence with the Secretary of War, to which I have just alluded. I respectfully beg attention to it of the honorable the Congress, for it corroborates what I have already stated in reference to my agreement with the Secretary of War, and it proves that he knew where I was raising my troops, and that I was raising them for my own command. It proves also, that he fully and unequivocally approved it all by the responsive dispatches addressed to me:

“TELEGRAPHIC DISPATCHES.

“1st. *From the Secretary of War:*

“Dated Richmond, June 19, 1861. Received, New Orleans, June 19, 1861, — o'clock, — min. M.

“To Colonel GASPAR TOCHMAN:

“Our supply of arms is so limited, that you had better not undertake to raise exceeding a regiment. L. P. WALKER.”

2. *Answer to above, by telegraph.*

“HEADQUARTERS OF THE POLISH BRIGADE, C. S. ARMY,
 New Orleans, La., 57, St. Charles Street, June 20, 1861. } }

“Hon. L. P. WALKER,

“Secretary of War, Richmond, Virginia:

“Twenty companies are already raised, uniformed and drilling here, and some in Mississippi; seven mustered into service and encamped at Amite. Six were to be mustered to-day, and the rest on Saturday. Should you curtail me now to one regiment, it would cause a good deal of trouble, loss and dissatisfaction. The confidence of those who responded to my proclamation would be irretrievably lost, and the favorable reaction amongst the foreigners, which the announcement of my forming the Polish brigade, has elicited in Missouri and at the North, would be checked. Please then, advise with the President. I will keep up the work quietly until further orders. Should you send me arms immediately, the whole brigade would take the field in less than thirty days.

“G. TOCHMAN.”

3. *Secretary's answer to the above, by telegraph.*

“Dated Richmond, June 20, 1861. Received, New Orleans, June 20, 1861.

“To Colonel G. TOCHMAN:

“If the companies are raised, of course I shall not interfere. Let them be mustered into service.

“L. P. WALKER.”

“4. *Telegraphic dispatch from the Secretary of War.*

“Dated Richmond, June 24, 1861. Received, New Orleans, June 24, 1861.

“To Colonel GASPAR TOCHMAN:

“Volunteers furnish their own clothing, getting commutation money in lieu, twenty-one dollars, the first pay-roll, and twenty-one dollars every succeeding six months.

“L. P. WALKER.”

5th. *Telegraphic dispatch.*

“1. HEADQUARTERS OF THE POLISH BRIGADE OF THE C. S. A.,
 “New Orleans, La., June 27, 1861. } }

“To Hon. L. P. WALKER,

“Secretary of War, Richmond:

“Can I accept for the brigade, a company of artillery? It is fully equipped, and if accepted by me, would have no claim against the Government for its equipment.

“G. TOCHMAN.”

6th. Secretary's answer to the above, by telegraph.

" Dated Richmond, June 27, 1861. Received, New Orleans, June 27, 1861, —, o'clock; — min. M.

" To Colonel G. TOCHMAN:

" If the artillery company is fully equipped with guns for complete battery, you can receive it into service.

" L. P. WALKER."

When all the respectful and conciliatory requests and remonstrances which I addressed directly to the Executive, failed to obtain me that reasonable regard and due justice, to which, if not the national, the *true* policy and interest, then, at least, my voluntary sacrifices and tried devotion to the cause of the Confederate States, should entitle me, I presented a memorial to the preceding Congress, praying for such relief as the nature of the case and their wisdom and national honor may dictate.

The Committee on Military Affairs of the House of Representatives, to which that memorial was referred, reported upon it, *unanimously*, on the 23d of April, 1863, concluding as follows:

" Your Committee, fully appreciating the patriotic zeal and self-sacrificing devotion to our holy cause, manifest throughout the whole conduct of memorialist, whilst considering the Court of Claims provided for by the Constitution as the appropriate tribunal for the investigation and adjustment of pecuniary grievances, recommend the adoption of the following resolutions, as a just tribute to and vindication of the character and integrity of the intentions of memorialist:

" RESOLUTION.

" WHEREAS, The Secretary of War, on the 20th day of May, 1861, authorized Major Gaspar Tochman, late of the Polish army, etc., etc., to raise ten companies, to be composed of persons of foreign birth, and to enlist for the war, with the privilege, on the part of the privates, to withdraw at the end of three years; or, should he find it practicable, to raise twenty companies, which would be organized into a brigade; or, to raise two regiments for the war, to be received, with the officers, as far as should be acceptable to the Confederate Government; and whereas, said Major Gaspar Tochman, acting under said authority, did actually raise for the war one thousand seven hundred men, exclusive of officers; and whereas, it appears from the letter of the President addressed to said Major Gaspar Tochman, on the 25th of October, 1861, that the Secretary of War was not authorized by the President to promise him the commission of a brigadier general, but to tender to him the appointment of a colonelcy to one of the regiments to be raised; it is nevertheless due to the honor and character of said Major Gaspar Tochman, (which it

is believed the President has no design to impeach,) to admit his assertion, that the intention of the President was not known to him when he accepted the authority to raise, and did raise, troops under it. And it is therefore—

Resolved, That in the history of Major Gaspar Tochman's efforts to raise troops under said authority, and identify himself with the provisional army of the Confederate States, Congress finds the most praiseworthy devotion to sound principles and free government, and nothing in the least prejudicial to his honor and character as a soldier and gentleman."

The constitutional Court of Claims, which the Committee on Military Affairs, in the foregoing report, considers as the appropriate tribunal for settling my "pecuniary grievances," not being yet created, and events having occurred which require my speedy return to Poland, I addressed a letter to the President, on the 19th of September, 1863, humbly requesting his Excellency either to give an order for payment to me of a brigadier's salary and commutation for three years, (my troops raised for this period being in the actual service of the Confederate States,) or to recommend to Congress that my personal expenses incurred in raising those troops, etc., making \$5,925 in gold, and \$1,600 in the currency of the Confederate States, be refunded to me in such currency as I bore and paid them. (Exhibit No. 3.)

Unable to obtain even this *mere* act of justice, as the subsequent correspondence with the Secretary of War, (Exhibits No. 4, 5, 6, 7,) to whom the President referred that letter, fully shows, I brought this demand, too, before the preceding Congress; which, being referred to the Committee on Claims of the House of Representatives, that committee "returned" the following, *unanimous*, joint resolution:

"Joint resolution for the relief of General G. Tochman.

"The Congress of the Confederate States of America do resolve, That the Secretary of War is hereby authorized to audit and pay the claims of General Tochman for money expended by him in raising two regiments of Louisiana troops.

"Returned by Mr. Clayton."

The pressure of more important public business did not allow that committee to bring up this resolution for action before the preceding Congress. It has only filed it in the clerk's office of the House Representatives.

The resolutions reported by the Committee on Military Affairs were not acted upon by that Congress from a similar reason.

In this position of the case I now address this honorable Congress, begging them respectfully, that such redress be granted to me as would protect my character, so unjustly wronged by the Executive, and as would relieve me from losses, to which this, undeserved, withholding of my *regular* commission has exposed me. These losses are fully set forth, and proved, in Exhibits No. 3, 8, 9.

But, in reference to the joint resolution, as it is drawn and recommended by the Committee on Claims of the proceeding Congress, I beg leave to submit for the consideration of this honorable Congress:

1st. The "legal propositions" (Exhibit No. 8) filed with that committee show that I have *a perfect right* to claim the salary and commutation of brigadier general for three years, and that I offered to *waive* this right under the condition that my personal expenses, incurred by the undertaking to raise my troops, will be refunded to me in such currency as I disbursed them, and upon acceptance of the secondary evidence, from consideration that I have been debarred from collecting the primary by an action of the Government which could not have been foreseen. The committee required of me this secondary evidence in an affidavit, which was made and filed with the committee, on the 29th of January, 1864, (Exhibit No 9.) It is submitted, that by directing the Secretary of War to *audit* my claim, as that committee does in the draught of the *returned* resolution, their acceptance of the affidavit as a sufficient evidence to substantiate that claim would be defeated, and I cannot bring any better evidence in its place, from reasons fully explained in the "legal propositions," (Exhibit No. 8.) Unless, then, the Secretary of War is directed, *peremptorily*, to pay my claim as it is proved by the affidavit, and in such currency as I bore these expenses, I claim, and beg Congress to order, that payment be made to me of the salary and commutation of brigadier general for three years, as constituting that legal consideration which I have *a perfect right* to demand, the President's withholding my regular commission notwithstanding, as is proved in the said "legal propositions." (Exhibit No. 8.)

2d. This joint resolution is at variance with the evidence on record, in so far as it directs the Secretary of War to pay my expenses "for raising two regiments of *Louisiana* troops." I have never raised such troops. The muster-rolls, being on file in the office of the Adjutant and Inspector General of the Confederate States army, prove that the troops I raised were mustered in the service of the Confederate States, under the designation of the "first and second regiments of the *Polish brigade, Confederate States provisional army*." And the order of the Adjutant and Inspector General, inserted on page eight of this memorial, proves that these troops were turned over to the State of Louisiana by *changing their original designation*. As there is no law in existence that would warrant this turning over to the State of Louisiana of my brigade, this fact is *material* in my case. I beg, therefore, to have it corrected according to the evidence of the record.

In conclusion, I beg the honorable the Congress that my memorial presented to the preceding Congress, in January, 1863, and all the papers printed by the subsequent orders of the House of Representatives of that Congress, be referred to and considered as parts of this memorial.

I have the honor to be, of the honorable the Congress,

The most obedient servant,

G. TOCHMAN.

RICHMOND, V.A., May 2, 1861.

(EXHIBIT No. 1.)

From the New Orleans True Delta of the 3d of June, 1861.

[This proclamation was published in all the newspapers of New Orleans, and widely republished in other southern papers, including the Whig and Dispatch of Richmond.]

TO THE REFUGEES IN AMERICA FROM FOREIGN LANDS.

Fellow-Countrymen of the Old World:

Whether driven from the homes of our birth by the oppressors of our native land, or revolting from the tyrannic despotism and the pretended constitutional monarchies of Europe, we have sought and found new homes and safe asylums in these far-famed, prosperous and hitherto happy States of the American Union, founded upon the sacred principles of self-government and State sovereignty, which for eighty years have been the bulwark and custodian of the personal liberties of the American people North, South, East and West, as well as of ourselves, the sons of their adoption. The Constitution which once united these sovereign States neither knew a northern nor a southern section of this great country. It only knew its creators, the sovereign States, to be equal and supreme in their political co-partnership—associated together for the specific purposes of common defence and external protection.

This magnificent temple of human liberty was established and cemented by the precious blood of revolutionary sires, who were as well Americans as Frenchmen, Germans, Poles and Irishmen. Its structure, indeed, belongs to the American people, but its vital element, the sacred principles of self-government which underlie it, as well as that of constitutional liberty, is the property of all mankind. That flag which was adopted by those sovereign States within the period of fifty years was designed to be the emblem of no other union. It is no longer its consecrated aegis. It was not the banner of our revolutionary sires, and it is not now the standard of human liberty, but the symbol of a despotic tyranny. Those great principles of self-government—constitutional freedom and State sovereignty—upon which alone the individual liberty of man could have been perpetuated, have been gradually overturned by the selfish and unprincipled agency of northern politicians, who, for their own purposes, have inaugurated a false policy, utterly adverse to the principles of the Constitution, and tending directly to the consolidation of all power in the Federal Government, thus establishing a despotism precisely similar to those of Europe, which we had so indignantly abandoned. The artful agitation of the African slavery question was only an instrument cunningly devised and employed for sinister objects by

the political schemers of the North, who, for long years past, have been undermining and working out the destruction of that once glorious Union of sovereign States. Every sincere patriot, every lover of human liberty, must hope that the people of the North may yet discover, in time to arrest the awful calamity of internecine strife which their mad rulers have commenced; that the inconsiderate support which they furnish to those rulers who have so insanely rejected every amicable proposition for settling these questions of State sovereignty, must ultimately end in the destruction of their own liberties, without the possibility of ever restoring that Union they have thus ruthlessly rent asunder. Before, however, this hope or expectation can become a reality, and can possibly effect a termination of this nefarious invasion through the prevalence of rational and Christian principles, it is our sacred duty, enuring alike from our oath of allegiance to support the Constitution in its purity, as well as from our obligations to the cause of human liberty, to take sides with those States which, finding it impossible to secure their fundamental principles of State sovereignty within that Union, have seceded from its perverted association. Guided by these principles and these considerations, which I earnestly and sincerely believe and feel to be right and true, I have offered my services to the Confederate States of America, and have accepted a commission under their authority, to raise, *for the period of the war*, twenty companies of soldiers, to be formed into a brigade, or to raise two regiments, to be received into their service, *with the proper complement of officers*.

Respectfully submitting for your consideration and approval the foregoing views, which constitute the principles of my determination and my action, I now most earnestly invoke and call upon you, my fellow-exiles from the despotism of Europe, *to unite with me in defence* of those cherished principles of self-government, constitutional liberty and State sovereignty, which the glorious sires of the first American Revolution confided to the special guardianship of our American fellow-citizens, as well as to the descendants of the liberty-loving foreigners whose ancestors mingled their blood with the blood of those illustrious Americans in the establishment of those great principles. It is a legacy bequeathed to us all alike. Eighty years of its peaceful enjoyment has proved its priceless value. It should be upheld with all our devotion, until the people of the North shall discover, and understand, the selfish machinations of their unprincipled political rulers; and, finally, comprehending their own delusion, shall at length return repentant to the glorious temple of worship of Washington and La Fayette, of Kosciusko, Pulaski and De Kalb, and all their illustrious compeers of revolutionary glory.

Your affectionate and liberty-loving fellow exile,

GASPAR TOCHMAN,
Major of the Polish Army, in 1831.

May 24, 1861.

EXHIBIT No. 2.

RICHMOND, VA., October 6, 1862, {
 137 Spotswood Hotel. }

Colonel ZEBULON YORK, of the 14th Louisiana Regiment :

Colonel F. SCHALLER, of the 22d Mississippi Regiment :

Now in Richmond, Va.

GENTLEMEN: Taking advantage of your temporary sojourn in this city, I beg leave to address you to the following purpose: Last year, when the controversy arose as to the construction of the authority under which I raised, in Louisiana, my brigade, denominated "the Polish brigade," Colonel Sulakowski, (who is now in New Orleans,) and many other officers of that brigade, were willing and desirous to intercede, by petitioning the President of the Confederate States, to sustain me in its command. I declined, peremptorily, their generous offer, resting my right to the command upon the stipulated authority, as it was understood by me and the Secretary of War, Hon. L. P. Walker, at the time when it was issued by him and accepted by me. Greatly as I regret that that controversy resulted in my withdrawing from the service, and thus deprived me of the honor and privilege of sharing the glory and dangers of this war with you and others, who responded to my proclamation and placed themselves under my command, I deem it, even in this state of my case, inconsistent with self-respect, either to seek or to accept the intercession of others to secure me the enjoyment of that right, which, under the fair interpretation of my authority, I had acquired from the moment I raised the brigade. But I owe it not less to myself than to truth and honest dealing, to refute certain surmises, recently communicated to me, even though they have not the least bearing upon the fixed, legal and natural rules of interpretation, by which alone my right to the command, acquired under that authority, should and must be tested. To attain this end, therefore, I address you, as the field officers of my brigade at the time of its organization, requesting you to testify to the facts within your personal knowledge, by answering the following queries:

1. Had, or had not, my former position of Major in the Polish army, and the proclamation, of which a copy is herein annexed,* any influence upon you and your friends, to determine your and their enlistment into my brigade?

2. As the muster-rolls do not show the nativity of the rank and file of the brigade, please to state what proportion of natives and foreigners was in it before the regiments were ordered to leave camp "Pulaski" to take the field?

3. In what manner did I raise my brigade; was it done by simply mustering into the service of the Confederate States ready companies, raised and organized without my official aid and assistance, or were they raised and organized pursuant to the arrangements, with my official aid, and under the instructions communicated and enforced

*Exhibit No. 1, of this memorial.

under my orders. And what effect, if any, these arrangements and orders had in raising and organizing that brigade? Please to return me your answer upon this letter.

With great respect, I have the honor to be,

Your most obedient servant,

G. TOCHMAN.

RICHMOND, VA., Oct. 12, 1862.

SIR—Your communication, bearing date October 6, 1862, requesting answers to certain questions propounded, relative to the late “Polish Brigade” under your command, now constituting the fourteenth and fifteenth Louisiana regiments of infantry, has been received, and we, reciprocating the sentiments expressed in its opening, respectfully return the following reply, of facts within our knowledge. *To question first:*

Most certainly did your reputation, as a patriot and soldier, induce those who joined your brigade, to prefer that organization to many others, then in course of formation within the limits of the State of Louisiana. The proclamation which you had issued, could not but stimulate that desire, and hence the speedy and successful formation of your brigade. To cite individual cases, Colonel, then Major York, enlisted from the desire to be commanded by a tried and experienced soldier, in spite of superior advantages offered to him in other organizations; and Colonel, then Major Schaller, preferred to enlist under your banner from similar motives, although having in project a higher position in the service of the State of North Carolina, in which he then was engaged.

To Question Second. To this question, we unhesitatingly reply, that there were in your brigade, at the time of leaving Camp Pulaski, at least five foreigners to every native; that is, of seventeen hundred in the brigade, fourteen hundred and fifteen were foreigners, and but two hundred and eighty-five natives; not, however, including the commissioned officers, all of whom were natives of Louisiana, with but four exceptions of foreign officers, who had received a regular military education, and had served in European armies.

To Question Third. We do not know by what means, and by whom, the first two companies of your brigade were raised.* Shortly after these companies were mustered into service, you arrived in New Orleans, established the headquarters of your brigade at fifty-seven St. Charles street, and your camp of organization and instruction at Amite, Parish of St. Helena, under the name of “Camp Pulaski,” some fifty miles north of New Orleans. Since then, the raising of

*These two companies were raised by my correspondent and agent, V. Sulakowski, subsequently Colonel of the first regiment of my brigade. They were mustered into the service of the C. S. by Lieutenant Phifer, of the C. S. A., under the orders of General Cooper, Adj. and Insp. General, C. S. A., issued at my request, filed in the War Department, May 24, 1861.

G. TOCHMAN.

your troops, and organizing them into regiments and a brigade, was carried on directly under your orders and command. We had no part in these operations, being at camp, and performing there the duties assigned to us, respectively, under your orders. We know, however, from personal knowledge and observation, that there were numerous independent companies of volunteers raising, and already raised, which had no definite determination what particular organization they should join; in this state of affairs your proclamation appeared, and immediately a number of persons, interested in raising and organizing these companies, applied to you to be received. Some two or three companies, (among which that of Captain, subsequently Major, now Colonel York,) fully organized, were immediately accepted and mustered into service. Several were skeleton companies, just then raising, and many were projected to be raised; with all such you made suitable arrangements, aided the proposed officers, in your official capacity, in raising and organizing them, or they were so aided by your instructions, and then mustered into service, and then sent to camp. Some of these companies could not raise the requisite quota of men, and they were filled by your orders from recruits, enlisted and mustered singly into your brigade. To show the effect of your labors, and lest the impression be conveyed that you experienced but little or no difficulty in raising your brigade, we need only point to the fact that it was more difficult to enlist men *for the war*, than for one year's service only, in the State regiments of Louisiana, many of which were then in progress of organization. Moreover, the State companies, as soon as mustered into service, were splendidly armed and equipped, thus materially aiding their discipline and organization into regiments, which advantages you had to forego, because the Confederate Provisional Government was not then able to extend the same facilities to yourself and brigade.

We addressed you as our brigadier general, in the private and official communications, during the organization of your brigade. We now address you as colonel, commanding the brigade, from no other motive but that, in our opinion, it would be improper for us to anticipate, in this official answer, the decision of your controversy with the Government. The enclosures are here returned.

We have the honor to remain, most respectfully,

Your obedient servants,

ZEBULON YORK,

Colonel Fourteenth Louisiana regiment.

F. SCHALLER,

Colonel of the Twenty Second Mississippi regiment.

To Colonel GASPAR TOCHMAN,

Commanding the late "Polish Brigade," Richmond, Va.

(EXHIBIT No. 3.)

GENERAL TOCHMAN'S LETTER TO PRESIDENT DAVIS.

MAX-MEADOWS, WYTHE COUNTY, VA., }
 September 19, 1863. }

To His Excellency, JEFFERSON DAVIS,

President of the Confederate States:

Mr. PRESIDENT: The resolutions adopted and recommended to Congress by an unanimous vote of the Committee on Military Affairs of the House of Representatives, which are on the Calender of that House, for its action at the next session, [Exhibit A,*] would place me right as to my position, both here and in Europe; for no caviller would be able to infer, and set forth against me, charges of imputation derogatory to my character, when they prove and show plainly that your Excellency refused me the regular commission to command the troops I raised, from no other motives but because the Secretary of War, Hon. L. P. Walker, in stipulating with me for raising those troops, exceeded the power you invested him with. But I submit, most respectfully, that the Court of Claims, to which that Committee leaves the settlement of my "pecuniary grievances," not being created yet, it would take at least a year or two to recover, through its agency, what is due to me. At this juncture, Mr. President, my native country, Poland, calls for my services. And, as the recovery of my pecuniary claim, before my departure for Europe, might enable me to render her some signal services, may I not hope that you will be pleased to take proper measures that this claim might be settled with me, without referring it to the Court of Claims, which does not yet exist. I have suffered very heavy losses in the property left at the North, in the abandonment of the northern clientel, and by the separation from my family for more than two years and a half already closing. The loss of the fees, in a single case of the heirs of General Kosciusko, for the recovery of land in Ohio, in which case Senator Pugh, of that State, is associated with me as counsel, amounts to several thousand dollars. I lay no claim for the compensation of all these losses. I consider them as losses resulting from the ordinary course of the war, such as you, and other loyal citizens, have suffered, and may suffer, by its incidents. I claim only to have the right to recover, either the stipends and emoluments of brigadier, for three years, it being the period for which I raised *my troops, which are in the actual service of the Confederate States*; or, should you object to this mode of settling with me this account, I beg you to recommend to Congress, that my *actual expenses* of raising those troops, and of living here since the 27th of April, 1861, which is the date of my leaving Washington, D. C., to tender you my services, be refunded to me, with-

*Inserted in this memorial on pages 10 and 11.

out referring them, for settlement, to the court, not being in existence. Congress would not refuse such recommendation, for there are many precedents on the congressional record to show that this was done in cases less urgent, less meritorious, and less equitable. The gross amount of these expenses is \$5,925, in gold, and partly in Virginia and Louisiana currency, when it was at par with the gold coin, besides \$1,600 in currency of the Confederate States, which I borrowed, recently, for my support here. But it is submitted that the act of the Provisional Congress, No. 109, approved May 8, 1861, under the authority of which your Secretary of War stipulated for my services, making no provision for refunding such expenses for raising troops thereby authorized to be raised, I construed its intention to be the usage practised by all other nations and their governments in similar emergencies, which is: that those *military men* (natives or foreigners) who, in case of war, undertake to raise troops for their own commands, *in lieu* of their expenses, and as a recompense for their services, receive commissions in ranks corresponding to the number of troops raised, and the stipends and emoluments attached, by law, to their commissions. So construing the act of Congress under which I accepted the authority to raise troops for my own command, and relying, *bona fide*, upon the express agreement with your Secretary of War, that I would command all the troops I might raise under that authority, I did not expect to have ever any liquidation with the Government for my disbursements. I did not keep, therefore, any account of those disbursements, and it is now impossible for me to make any specification of their items, or to support them by the vouchers. I can only prove, by my oaths, that their gross amount, above stated, is true and correct, which oath I am prepared to take whenever required. And, if required, I submit to proving the loan contracted for my support, by the testimony of the creditors.

Whichever mode of settling with me this account your Excellency may be pleased to adopt, the sum of \$1,105 33 in the Confederate States currency should be deducted, which was paid me in October, 1861, under the orders of the Hon. J. P. Benjamin, then acting Secretary of War, as colonel's stipends, due for three months and thirteen days' services—including some expenses of the postage and telegraphic dispatches. It is hoped, however, that should you prefer to refund me the expenses, they will be refunded in the same currency I bore and paid them.

Mr. President, allow me yet to submit, that but for the unfortunate misunderstanding which arose, as it appears now, from the Secretary of War having exceeded his authority, my services might have become very valuable to the cause of the Confederate States. The fact that, in less than six weeks, *upon my proclamation*, 1,415 foreigners, exclusive of the natives, enlisted into my brigade, certainly authorizes an inference that I could raise a great number of foreign troops had I been left in command of that brigade, which, moreover, by the mere power of influence, might have checked, considerably, the enlistment of foreigners into the Federal army, and might have gained the Confederate States this public opinion abroad, they so need, to obtain

recognition of their independence. But whatever would have been the result of the expectations which my first success, herein alluded to, authorizes me to infer, the enclosed, [Exhibit B.] which is the original charter incorporating, in the State of New-York, a "Polish-Sclavonian Literary Association," composed, as the charter shows, of the most prominent and powerful leaders of all political parties of the Northern section of the old Union, of which association I am the founder, and was one of the vice-presidents since its organization, will disclose to your Excellency at what sacrifices of the material interests of Poland, I have separated myself from the North to take part, in this war, with the South; may I not then hope, that at least, in consideration of this great sacrifice of the material interests of Poland, for the exclusive benefit of the Confederate States, the simple justice of settling with me this claim, would be granted to enable me to serve, at this crisis, the sacred cause of my native land?

Begging for the preservation of the charter, until I call for it at the Private Secretary's office,

I have the honor to be,

Your Excellency's most obedient servant,

G. TOCHMAN.

[B.]

"An Act to incorporate the Polish Sclavonian Literary Association, in the State of New York. Passed March 26, 1846, by a two-thirds vote.

"The People of the State of New York, represented in Senate and Assembly do enact as follows:

" SECTION 1. Major Gaspar Tochman, of Poland, now counsellor at law of the bar of this State, and of the Supreme Court of the United States, and associated with him Hon. William H. Seward, also counsellor at law, formerly Governor; George Folsome, Senator; Samuel J. Tilden, member of the Assembly of this State; John Davis, of Massachusetts, William Upham and Samuel S. Phelps, of Vermont, John McPherson Berrien, of Georgia, William S. Archer, of Virginia, Albert C. Greene and James F. Simmons, of Rhode Island, Jacob W. Miller and William L. Dayton, of New Jersey, George Evans, of Maine, Willie P. Mangum, of North Carolina, Reverdy Johnson and James A. Pearce, of Maryland, Thomas Corwin, of Ohio, John J. Crittenden, of Kentucky, Spencer Jarnagin, of Tennessee, Senators of the United States in Congress; John DeMott, Albert Smith, Elias B. Hanes, Erastus D. Culver, Washington Hunt, Hugh White, Abner Lewis, R. P. Herrick, Horace Wheaton, of this State, Andrew Trumbo, John McHenry, William P. Thomasson, of Kentucky, Julius Brockwell, Daniel G. King, Charles Hudson and George Ashmun, of Massachusetts, Columbus

Dolano, Samuel S. Venton, Jesup M. Root, Daniel R. Tilden, and Joshua R. Giddings, of Ohio, John Runk, George Syles and Josiah Edsal, of New Jersey, Alfred Dockery, of North Carolina, George P. Marsh and Jacob Collamer, of Vermont, John R. Rockwell and Samuel D. Hubbard, of Connecticut, Robert Toombs, of Georgia, Alexander Ramsay, Richard Broadhead and James Pollock, of Pennsylvania, Bennou G. Thibaux, of Louisiana, John S. Pendleton, of Virginia; Luther Severame and Robert F. Dunlap, of Maine, Henry W. Y. Cranston and L. H. Arnold, of Rhode Island, Edward Long, of Maryland, all members of the House of Representatives of the United States Congress; John McLean, Levi Woodbury, James M. Wayne, Samuel Nelson and John McKinley, Judges of the Supreme Court of the United States; Albert Gallatin, late Envoy Extraordinary and Plenipotentiary Minister of the United States to France; Theodore Frelinghuysen, L. L. D., chancellor, and James Tallemage, president of the University of New York; Josiah Quincy, L. L. D., late president, and Jared Sparks, L. L. D., professor of Harvard University; Nathaniel F. Moor, L. L. D., president of Columbia College; Professor Joseph G. Cogswell, of New York; Samuel A. McCesky, Bishop of Michigan; Rev. G. S. Bedell, of the Episcopal church of New York; John McCloskey, bishop coadjutor and Charles Constantine Pise, D. D., of the Roman Catholic church, of New York; Thos. H. Skinner, D. D., of New York, and W. B. Sprague, D. D., of Albany, of the Presbyterian church; Rev. Henry W. Bellows, of the Unitarian church; Rev. Edwin Holt and William R. Williams, D. D., of the Baptist church; William F. Havemeyer, mayor of the city of New York; Josiah Quincy, Jr., mayor of the city of Boston, in the State of Massachusetts; Green C. Bronson, chief justice, and W. P. Hallett, clerk of the Supreme Court of this State; John Van Buren, attorney general of this State; Benjamin F. Butler, district attorney of the United States; W. P. McCoun, vice chancellor, and Lewis H. Sanford, assistant vice chancellor of this State; Daniel Lord, Daniel D. Lord, James Sanford, J. Prescott Hall, W. B. Lawrence, David P. Hall, Jonathan Miller, Thomas W. Tucker, Samuel A. Craps, W. M. Evarts, John Jay, Charles E. Butler, C. H. Platt, Morris Franklin, E. P. Hurlburt, John Bigelow, Edward Sanford, M. K. Zabriskie, D. L. Wite, Mortimer Porter, Stephen P. Nash, D. W. Walker, Francis H. Upton, Ralph Lockwood, Edwin Stoughton, Edwin Burr, D. E. Wheeler, Alexander J. Johnson, H. S. Dodge, C. Van Swartwood, Richard H. Bowne, John C. Crosby, John H. Magher, Augustus Shell, John Slosson, Stephen Cambreling, John H. Lee, William Van Wyck, of city and State of New York, T. Parkin Scott, of Baltimore, in the State of Maryland, James Page and George W. Page, of Philadelphia, in the State of Pennsylvania, John Pickering, Richard Robins and George Snelling, of Boston, in the State of Massachusetts, all counsellors at law; J. J. Astor, Edward Treadwell, G. H. Stryker, Alfred G. James, W. Woodbridge Hudson, and Livingston H. Miller, all attorneys at law in the city and State of New York; Richard H. Smith, president of the Union Insurance Company of Philadelphia, in the State of Pennsylvania,

and Henry Bohlen of the city and State aforesaid; Dr. Samuel G. Howe, Amos Lawrence, and Charles Lyman, of Boston, in the State of Massachusetts; F. C. Tucker, president of the Leather Manufacturers' Bank, James Gallatin, president of the National Bank, Shepherd Knapp, president of the Merchants' Bank, Reuben Withers, cashier of the Bank of the State of New York, Preserve Fish, president of the Tradesman's Bank, George Newbold, president of the Bank of America, J. Oothout, president of the Bank of New York, John S. Stevens, president of the Bank of Commerce, and George Curtis, cashier of the same bank, D. Leavitt, president of the Bank of Exchange, and John S. Fish, cashier of the same bank, Robert S. Patterson, president of the Mutual Benefit Life Insurance Company, James G. King and Samuel Ware, Bankers, Philip R. Kearney, Secretary of the New York Life Insurance Company, all of the city and State of New York; Joseph R. Chandler, proprietor and editor of the Philadelphia United States Gazette, James W. Webb and Charles King, proprietors and editors of the Courier and Enquirer, of New York, John H. Guion, publisher of the Morning Views, of New York, Theodore Dwight, proprietor, and W. B. Townsend, editor of the New York Express, Francis Hall, proprietor and editor of the New York Commercial Advertiser, W. C. Bryant, proprietor and editor of the New York Evening Post, Nathan Hall, proprietor and editor of the Boston Daily Advertiser, John L. O'Sullivan, proprietor and editor, and Thomas P. Kettal and C. C. Gardiner, editors of the Democratic Review, John Allen, proprietor, and S. Gaylord Clark, editor of the Knickerbocker, Horace Greeley, editor and proprietor of the New York Tribune; General John Wilson, of Missouri; Colonel James Monroe, R. Watts, Jr., M. D., J. H. Raymond, Fitz Green Halleck, the poet, E. F. Forestry, William Douglass, Vanbrigh Livingston, Campbell P. White, Isaac T. Smith, Elijah F. Purdy, James Conner, J. D. Fowler, Jacob A. Westervell, Amos Livingston, John Cotton Smith, W. E. Whiting, J. W. Bogare, all of the city and State of New York; and all such persons as they shall at any time hereafter associate with themselves, are hereby created a body corporate, by the name of the "Polish Sclavonian Literary Association in the State of New York," for the purpose of collecting a library, and promoting the diffusion of knowledge of the history, science, and literature of the nations of the Sclavonian race, giving lectures and publishing tracts, and a journal in English, and such foreign languages as the corporation shall deem proper.

"§ 2. To meet the exigencies of the purposes for which this corporation is created, it shall have the power of holding real and personal property to the amount of two hundred and fifty thousand dollars, which is to be acquired by subscriptions, gifts, donations, assignments, devises and purchases.

"§ 3. The Executive Department of the corporation shall consist of a President, two Vice Presidents, a Corresponding Secretary, a Librarian, one Treasurer, and a Board of Directors, whose number shall not exceed eleven members, including the President and the

Vice President, who shall be *ex officio* members of the Board of Directors.

“ § 4. The officers enumerated in the preceding section shall be chosen annually on the 29th of November, by a plurality of votes of the members who shall be present at such annual meeting. And if such meeting shall not be holden on that day, then on such other day as the President, or, in his absence, the acting Vice President shall appoint.

“ § 5. The vacancies which may take place between the annual elections shall be filled by commissions to be issued by the President, and in his absence by the acting Vice President, with the advice of the Board of Directors, and the officers thus appointed shall continue in office until others in their stead be elected at the next annual meeting of the corporation.

“ § 6. The corporation shall have the power of making such by-laws and regulations as they shall judge proper for regulating further their annual and other periodical meetings; for prescribing the duties of the respective officers, and the mode of discharging them; for admission of the new members, and the mode of suspending or expelling such officers and members as the safety and honor of the corporation may require, and for other business calculated to promote the object and purposes of the corporation. But it is expressly provided that no by-laws shall pass, or be changed, unless the meeting shall be attended by a majority of the members of the association residing in the city of New York. The members residing in the other States may send their votes in writing, if they choose to do so, which shall be counted with the votes of the members present at the meeting.

“ §7. Right Rev. Bishop McCoskry, George Folsome, Senator, William G. Havemeyer, mayor of the city of New York, Major G. Tochman, or either two of them, are authorised to invite seven members of the corporation to form with them a committee, whose duty shall be to draw the first by-laws, and to submit them to the decision of the corporation at a meeting which the said committee shall call as soon as they prepare the by-laws. This meeting shall also elect the officers of the corporation for the current year.

“ §8. No debts shall be contracted by the said corporation except for the purchase of books, for printing and rent of rooms, and the whole amount of its debt shall at no time exceed two thousand dollars.

“ §9. The said corporation shall further possess all general powers and be subject to all restrictions and liabilities prescribed by the Third title of the 18th Chapter of the first part of the Revised Statues of this State.

“ §10. This Act shall take effect immediately.

“ STATE OF NEW YORK: *In Assembly, March 17, 1846.* This Bill having been read the third time—two thirds of all members elected to the Assembly voting in favor thereof,

“ *Resolved*, That the Bill pass. By order of the Assembly.

“ Wm. C. CRAIN, Speaker.”

“ STATE OF NEW YORK: *In Senate, March 24, 1846.* This Bill having been read the third time—two thirds of all members elected to the Senate voting in favor thereof,

“ *Resolved,* That the Bill pass.

“ A. GARDINER, *President.*”

“ Approved this 26th day of March, 1846.

“ SILAS WRIGHT.”

STATE OF NEW YORK, }
Secretary's Office. }

“ I have compared the preceding with original act of the Legislature of this State, deposited in this office, and do certify that the same is a correct transcript or exemplification thereof and of the whole of said original.

{ SEAL. }

“ In testimony whereof, I have hereunto affixed my seal of office, at the City of Albany, this 26th day of March, in the year of our Lord one thousand eight hundred and fifty-six.

“ N. S. BENTON,
“ *Secretary of State.*”

“ UNITED STATES OF AMERICA.

“ By SILAS WRIGHT, *Governor of the State of New York:* It is hereby certified that Nathaniel S. Benton is Secretary of State of the State of New York, that the signature of ‘ N. S. Benton,’ to the annexed exemplification is his proper hand writing, and that the said exemplification is authenticated in due form and by proper officer.

{ SEAL. }

“ In testimony whereof, the great seal of the State is hereunto affixed. Witness my hand, in the City of Albany, the 26th of March, in the year of Our Lord, one thousand eight hundred and forty-six.

“ SILAS WRIGHT.”

“ Passed the Secretary's Office, the 26th of March, 1846.

“ ARCH. CAMPBELL,
“ *Dept. Sec. of State.*”

(EXHIBIT No. 4.)

SPOTSWOOD HOTEL, No. 107, }
 Richmond, Va., December 4, 1863. }

Hon. JAMES A. SEDDON, *Secretary of War*:

¶ Sir: My papers, (marked T, W, D, 246,) being on file in your Department, show that the President referred to your decision the subject set forth in the letter I addressed to him on the 19th of September last, by endorsing on the wrapper of the bundle the following directions:

“ The within letter from Major Tochman contains statements which your record will test.

“ 1st. That the Secretary of War promised him the appointment of Brigadier General.

“ 2d. That he raised a brigade.

“ 3d. That I refused to give him the commission he had a right to expect.

“ No notice is taken of the fact that the authority was to raise troops abroad, and that they were raised at home.

“ The claim for money you will notice, as it shall be found to relate to any object for which the funds of your Department are applicable.”

On the same wrapper, below the President’s directions, is endorsed your decision, as follows:

“ Secretary of War: The papers in the matter of General Tochman were examined last winter, and he was informed that the Department ‘had not been invested with the power or means of paying for official services in cases when no commission had been issued.’ He subsequently applied to Congress, and a committee reported a complimentary resolution, which is enclosed.”

I beg you respectfully to review this, your decision, upon the following grounds:

1st. In the bundle of the papers, my letter of the 19th of September last, referred to you by the President, is missing. I infer from this that it was not before you when that decision was made. I enclose herein a copy of the missing letter, which will show you that that decision does not cover the case.

2d. It does not cover even the requirements pointed out by the President in his direction numbered 1st, 2d and 3d, as it does not appear that they have been specially, or even generally, tested by the record as the President directs. It is true that you say in the decision that “the papers in the matter of General Tochman were examined last winter.” But that examination was confined only to finding out whether a regular commission was issued and given to me or not. The object of finding it out was to enable you then to decide whether you had authority to pay any pecuniary grievances. The points now raised by the President, and specified in his directions to you under the numbers 1st, 2d and 3d, are of a different character, and if fully established by the evidence of record in your Department,

may secure to me the attainment of that right and justice which I claim, and which are due to me.

3d. It is erroneously stated in your decision, that I applied to Congress "subsequently" to your informing me that the department "had not been invested with the power or means of paying for official services in cases where no commission had been issued." My memorial was presented to Congress in January, and your letter, furnishing me that information (without my request) bears the date of February 17, 1863. The complimentary resolutions, reported by the committee to which you refer at the end of your decision, do not close this subject with a compliment alone. They show on their face that the adjustment of my "pecuniary grievances" is left to the Court of Claims. But as this court has not been yet created, and I am preparing to go to Europe to assist my native land, Poland, in her present struggle, I therefore brought this matter before his Excellency by the letter heretofore referred to, which is missing from the bundle of papers being on file in your department, begging his Excellency to settle with me this claim in the manner stated in that letter. Your decision does not meet this point of the case.

4th. The President says in his directions addressed to you, "No notice is taken (meaning in my letter to him) of the fact that the authority was to raise troops abroad, and that they were raised at home." The President evidently labored under great mistake. The authority under which I raised my troops read as follows:

"CONFEDERATE STATES OF AMERICA, WAR DEPARTMENT, }
"Montgomery, May 20, 1861. }

"To Major GASPAR TOCHMAN:

"SIR: You are authorized to raise ten companies, to be composed of persons of foreign birth, and to enlist for the war, with the privilege, on the part of the privates, to withdraw at the end of three years. Or, should you find it practicable, you are authorized to raise twenty companies, which would be organized into a brigade. Such officers of the army as may be necessary will be detailed at such points within the Confederacy as you may indicate, to enlist the men. Or, you are authorized to raise two regiments for the war, to be received with the officers as far as may be acceptable to the Confederate Government.

"Very respectfully, your obedient servant,
"L. P. WALKER,
"Secretary of War."

Besides this evidence refuting the statement that I had to raise my troops abroad, I respectfully submit, that the enlistment of troops abroad is so unfavorably looked upon by the international law, that no man of honor would undertake it, nor would the President be warranted in accepting such sort of services. Vattel, in his Law of Nations, book iii., chap. ii., sec. 15, says: " * * * The man who undertakes to enlist soldiers in a foreign country, without the sove-

reign's permission, * * * * * violates one of the most sacred rights of the prince and the nation. This *crime* is designated by the name of kidnapping or man-stealing, and is punished with the utmost severity in every well-regulated State. Foreign recruiters are *hanged without mercy and with great justice*. It is not presumed that their sovereign has ordered them to *commit a crime*; and, supposing even that they had received such an order, they ought not to have obeyed it—their sovereign *having no right to command what is contrary to the law of nature*. * * * * * But, if appears that they acted by order, such a proceeding, in a foreign sovereign, is *justly considered as an injury, and as a sufficient cause for declaring war against him*, unless he makes suitable reparation."

The object of my requesting you to review your decision is, the expectation, that when you "test, by the record," the points specified in the President's directions addressed to you, which are numbered 1st, 2d and 3d, and when you disabuse his Excellency from the error that my authority required of me raising my troops abroad, he may yet do me that justice, which, when due, as the whole history of the case proves, it is never too late to administer.

To facilitate your search, I have the honor to communicate to you a copy of the memorial presented to Congress last winter, which led the Committee on Military Affairs to adopt and report these complimentary resolutions to which you refer at the close of your decision. The exhibits numbered 3, 4, 6, 7, 9, 13, 15, 18, 19, 20 and 31, constitute the record by which you will have to test the points his Excellency desires in his directions addressed to you.

I have the honor, sir, to be,

Your most obedient servant,

G. TOCHMAN.

(EXHIBIT No. 5.)

GENERAL TOCHMAN TO MR. SEDDON.

RICHMOND, Va., January 2, 1864, }
No. 107, Spotswood Hotel. }

Hon. JAMES A. SEDDON,

Secretary of War Confederate States :

SIR: I do not find recorded in the document office of your Department the letter which I addressed, and personally handed to, you on the 4th of December last, requesting you to review your decision therein referred to, in the case relating to the claim, either of brigadier's salary, due me for the period I raised my brigade, (its troops being in the service of the Confederate States since the commencement of this war,) or of refunding to me five thousand nine hundred and twenty-five dollars, in gold, and one thousand six hundred dollars in the cur-

rency of the Confederate States, expended in raising that brigade, &c.—its command having been taken from me without cause attributable to me.

Anxious to bring this matter to a final issue, to enable me to go to Europe, to help my native land (Poland) in her present struggle, I have, almost simultaneously with handing that letter to you, addressed myself to Congress, too; and the case is now before the Committee on Claims, as you will see by reference to the enclosed record, (printed by order of the House,) and a copy of the letter I subsequently addressed to the Chairman of the Committee on Foreign Affairs, to which this case was originally referred. But it is obvious that your decision, whatever it may be, would enable that committee to take up the case and report it sooner than they can do it without hearing from you.

There are only two ways of bringing this case to its proper conclusion. The record before you settles the fact that the command of the troops I raised, under the express agreement that I would command them, was taken from me without a cause attributable to me. If, then, the President is disposed to do me full justice, it is in his power to do so, by directing you to issue my brigadier's commission, dating from the time I reported my brigade raised. If he persists in his unwillingness to do me this justice,

"The mild honor of my name I boast,
And find my empire there"—

And I respectfully beg you to recommend to Congress that my expenses (five thousand nine hundred and twenty-five dollars, in gold, and one thousand six hundred dollars in the Confederate States currency) be refunded to me:

This last request, I hope, will not be objected to; for this is the only way of settling this matter—when the President has already directed you to "notice my claim for money, as it shall be found to relate to any object for which the funds of your Department are applicable," (page twelve of this enclosed record,*) and when you have decided that you "have not been invested with the power or means of paying for official services where no commission had been issued." (The same page of the enclosed record,†)

I have the honor, sir, to be,

Your most obedient servant,

G. TOCHMAN.

*Page twenty-five of this memorial.

†The same page, twenty-five, of this memorial.

(EXHIBIT No. 6.)

MR. SEDDON TO GENERAL TOCHMAN.

CONFEDERATE STATES OF AMERICA,
 War Department,
 Richmond, Va., Jan. 7, 1864.

G. TOCHMAN, Esq., *Richmond, Va.*:

SIR: I have received and considered your letters of the 4th of December, 1863, and the 2d inst., relative to your claim for expenses incurred in raising troops for the Confederate service.

On a review of the whole case presented by you, I cannot see that injustice has been done you. The nature of the authority given you, manifestly, in my judgment, shows that the troops were to be raised abroad; else why the stipulation that officers should be sent to enlist them? The reference to the regiments, with the officers, if acceptable, are all the same view. Troops could not be enlisted abroad; they could only be engaged to come in. Hence, they had to be enlisted by Confederate authorities here. Officers, too, might be engaged abroad, and arrangements were made to accept them, likewise. No pecuniary claim could arise against the Department unless from a commission issued, and as that of brigadier general was not conferred, no power for the pay of such office or its equivalent can exist. Besides, the matter had long been determined before my connection with this Department. I do not see the force of equities presented in the case, but if they exist, they pertain to the jurisdiction of Congress, and would not justify any action or recommendation on my part.

Your obedient servant,

JAMES A. SEDDON,
Secretary of War.

(EXHIBIT No. 7.)

GENERAL TOCHMAN TO MR. SEDDON.

RICHMOND, Va., Jan. 12, 1864.

To Hon. JAMES A. SEDDON,

Secretary of War, C. S.:

SIR: On the 17th of February, 1863, you wrote to me a letter, which reads as follows:

"Your claim for services as *recruiting agent* is apparently a just one, but Congress has not afforded to this Department the power or means of paying for official services in cases where no commission has been issued. A great many claims of *this nature*, whose merits are not denied, have been rejected for this reason. The Department

has recommended to Congress to make some provision for them, and until that is done, it is without power or means to act.

“ Respectfully,

JAMES A. SEDDON,
Secretary of War.”

By an answer, bearing the date of March 2, 1863, I have corrected your *misconstruction* of the authority under which I raised my brigade, informing you therein, that I have never acted in the capacity of a recruiting agent; that, being a field officer of the Polish army, in 1830 and 1831, I would have never sacrificed my property in the United States, the welfare of my family I left there, and all my prospects at the North, to be a mere recruiting agent, my most sincere devotion to the cause of the Confederate States, notwithstanding; that I raised that brigade of troops *for my own command*, which was taken from me in violation of the authority stipulated for under the provisions of the act of Congress, No. 109, approved May 8, 1861, and accepted by me from your predecessor, Mr. Walker; and I respectfully requested you to inform me what occasion gave place to your addressing me as a *recruiting agent*.

Your reply bearing date of March 4, 1863, was as follows:

“ Your letter of the 2d instant, has been received. In reply, you are respectfully informed that the Department, in its letter of the 17th ultimo, *had no intention of disparaging the character or justice of your claims*, but merely desired to communicate the fact that Congress had not invested it with the power to acknowledge and pay them.”

Respectfully,

JAMES A. SEDDON,
Secretary of War.

After this reply, which I considered as a disclaimer of the *offensive* construction of that authority under which I raised my troops, you again returned to that *offensive* construction in the letter bearing date January 7, 1864, addressed to me in answer to the claim, either of paying me brigadier's salary for three years, this being the period for which I raised my brigade, and its regiments being in service of the Confederate States since the commencement of the war; or, of refunding to me five thousand nine hundred and twenty-five dollars in gold, and one thousand six hundred in the currency of the Confederate States, actually expended in raising those troops, &c., exclusive of heavy losses in property, &c., to which my siding with the South has subjected me; which last mentioned losses I consider as the result arising from the ordinary incidents of war, and claim nothing therefor.

In that letter, bearing date of January 7, 1864, you say: “On a review of the whole case presented by you, I cannot see that injustice has been done you.”

And to support this, your view of my case, you allege—

“ The nature of the authority given you, manifestly, *in my judgment*, shows that the troops were to be raised abroad; else why the stipulation that officers should be sent to enlist them? The reference to the regiments with the officers, if acceptable, are all the same view.”

Now, sir, the record on file in your Department shows, that though the President endorsed on the bundle of my papers filed in Montgomery, Alabama, "*appointed colonel, May 11, 1861, file carefully,*" my regular commission was not issued. The authority under which I raised my troops was addressed to me as major, which rank I held in the Polish army in 1830-'31. The regular commission was to be issued when I raised my troops: of colonel if I raised one regiment, and of brigadier if I raised a brigade; which privilege was extended and granted to me by that authority subsequently to the foregoing endorsement, "*appointed colonel, May 11, 1861.*" It is obvious, then, that, not being a regularly commissioned officer of the army of the Confederate States at the time of raising my troops, I could not enlist or muster into service my men. An agency of commissioned officers to do this was required, and as it was not expected that I could raise all my troops in *one place* in the Confederate States, being allowed to accept but a small number of the natives of this country, it was stipulated, and inserted in the authority accepted by me, that "*such officers of the army as may be necessary will be detailed, at such points within the Confederacy as I may indicate, to enlist the men.*" That so was understood at the time of my accepting that authority, and so must be understood now "*the stipulation that officers should be sent*" (to such places as I may designate) "*to enlist the men,*" and not so as you have been pleased to construe it, proves the fact, which cannot be overleaped by any cavil, that your predecessor, Mr. Walker, who stipulated with me for raising these troops and drew the authority, knew where I was raising them, and fully endorsed my proceedings in this respect, as the following official correspondence, herein attached in a printed cut, shows it:

"TELEGRAPHIC DISPATCHES.

"1st. *From the Secretary of War:*

"Dated Richmond, June 19, 1861. Received, New Orleans, June 19, 1861, — o'clock, — min. M.

"To Colonel GASPAR TOCHMAN:

"Our supply of arms is so limited, that you had better not undertake to raise exceeding a regiment. L. P. WALKER."

2. *Answer to above, by telegraph.*

"HEADQUARTERS OF THE POLISH BRIGADE, C. S. ARMY, }
New Orleans, La., 57, St. Charles Street, June 20, 1861. }

"Hon. L. P. WALKER,

"Secretary of War, Richmond, Virginia:

"Twenty companies are already raised, uniformed and drilling here, and some in Mississippi; seven mustered into service and encamped at Amite. Six were to be mustered in to-day, and the rest on Saturday. Should you curtail me now to one regiment, it would cause a good deal of trouble, loss and dissatisfaction. The confidence

of those who responded to my proclamation would be irretrievably lost, and the favorable reaction amongst the foreigners, which the announcement of my forming the Polish brigade, has elicited in Missouri and at the North, would be checked. Please then, advise with the President. I will keep up the work quietly until further orders. Should you send me arms immediately, the whole brigade would take the field in less than thirty days.

“G. TOCHMAN.”

3. *Secretary's answer to the above, by telegraph.*

“Dated Richmond, June 20, 1861. Received, New Orleans, June 20, 1861.

“To Colonel G. TOCHMAN:

“If the companies are raised, of course I shall not interfere. Let them be mustered into service.

“L. P. WALKER.”

It follows, from the foregoing facts, established by this official correspondence, which is conclusive, and settles the interpretation of my authority in question, that “the reference to the regiments, with the officers, if acceptable,” has no other meaning than the assurance stipulated that such officers as I may bring into service with my regiments should be accepted by the Government, if there was nothing objectionable to their character. And this pledge of your predecessor was fully respected. Only one officer, Frank Schaller, Major of the second Polish regiment of my brigade, which is now designated “fifteenth Louisiana regiment,” was dropped by him to make room for another individual. But, upon my protesting against it, His Excellency the President reinstated him in the service, and promoted him to the rank of Lieutenant Colonel of the twenty-second Mississippi regiment, of which he is now commanding Colonel.

To strengthen these faulty postulates, and to maintain, based upon it, your view of my case that “no injustice has been done to me,” you further allege in that letter, “Troops could not be enlisted abroad; they could only be engaged to come in. Hence they had to be enlisted by the Confederate authorities here. Officers, too, might be engaged abroad, and arrangements were made to accept them likewise.”

All this could have been done. I do not contest it; but I have not undertaken to go abroad to bring here men or officers to be enlisted by the Confederate authorities. Nor have I ever made arrangements you speak of that “they were made to accept the officers likewise.” My authority is too plain and unambiguous to admit so strange, and offensive to me, construction. Your predecessor who drew it and stipulated with me for its acceptance, never dreamed of giving it a construction so inconsistent with what I have undertaken to do for the Confederate States, and so adverse to the principles of the international law, to which I referred you in my letter of December 4, 1863,

which defines the action urged by you to be a "crime," a "kidnapping or stealing men," punishable by "hanging," and exposing the State that would adopt or authorize it to a "war, unless suitable reparation is made." (*Vattel's Law of Nations, book III., chap. 2, sec. 15.*)

Resting your view in my case upon so strange, singular and faulty postulates, you conclude that letter:

"No pecuniary claim could arise against this Department unless from a commission issued; and as that of Brigadier General was not conferred, no power to pay of such office, or its equivalent, can exist. Besides the matter had long been determined before my connection with the Department. I do not see the force of equities presented in the case, but if they exist, they pertain to the jurisdiction of Congress and would not justify any action or recommendation on my part.

"Your obedient servant,

"JAMES A. SEDDON,
"Secretary of War."

Disclaiming any intention to be indiscreet, I am compelled to answer this, your conclusion, by saying that, had the Confederate States no laws regulating and securing rights of individuals, acquired by dealing with their Government, my pecuniary claim might be barred by the arbitrary withholding of that commission to which I am entitled by having performed my part of the contract, stipulated with your predecessor. But, thanks be to God, we live yet under the laws regulating our conduct and guarding our rights. I will, therefore, search to recover what is due to me where you direct me.

But, sir, I cannot close this communication without expressing the sense of my *deeply hurt* feelings. I lost all *material* worldly goods in 1834 because I did not bend my neck before the autocrat of Russia, and refused to accept, four times offered me, amnesty when I was in Prussia, and subsequently in France. I carried only from the old world, and brought to the new, my honor, good name and character. That, for the purpose of subserving a mistaken political convenience of no public interest, an attempt should be made by a republican executive of the Confederate States, whose cause I have embraced, to assign to me a *degrading position*; to deprive me of that which the Czar did not dare, and could not grasp; and that it should be attempted with *unrelenting obstinacy*, without the least regard to their own interest, and upon strained, faulty postulates, is more than can be endured. I will not, however, turn a *Marcius Coriolanus*. But I sincerely wish I had not lived to record so sad a fact, which I am compelled to do in defence of my honor, good name and character. For, Mr. Secretary, it is not for brigadier's commission that I am contending. I defend my right to it *solely* because the manner in which the command of my brigade was taken from me, independent of what I have said just above, would leave a suspicion of *misdemeanor* having been committed by me, *unless these faulty and strained postulates*, upon which the Executive bases its prosecution against me, be fully exposed to the view and recorded.

I have the honor to be, sir, your obedient servant,

G. TOCHMAN.

(EXHIBIT NO. 8.)

LEGAL PROPOSITIONS.

Mr. CHAIRMAN: I conclude my statement and argument by filing with the committee and submitting to their consideration the following legal propositions:

1st. That the evidence spread upon the record before you proves that the commission of colonelcy, if I raised a regiment, and that of brigadier general, if I raised a brigade, was not to be a gift or favor offered to me. It was a stipulated—offered to me, and accepted by me—CONSIDERATION for undertaking to raise troops of “*persons of foreign birth*,” from which it follows that the authority given to me, and accepted by me, to raise those troops, and its verbal extension to accept the services of *such natives* as might desire to serve under my command, is a CONTRACT.

2. This evidence proves, also, conclusively, that I have fully performed my part of this *contract*. In other words: It proves that I have raised a brigade of troops under the designation of the “*Polish Brigade*,” 1,700 men strong, exclusive of the officers; in which number there were 1,415 *foreigners* in the ranks, and *four* amongst the officers. And it further proves, that these troops have been accepted by the Government, and are in the service of the Confederate States under the designation of the 14th and 15th regiments of Louisiana volunteers, with the exception of two companies, which dispersed on hearing that the Government refused to commission me as brigadier general, for which dispersion, it is submitted, no charge of responsibility can attach to me, *it being the result of the Government's proceeding*.

3. The allegation of the President that he did not authorize the Secretary of War to “promise” me brigadiership, cannot defeat my right to that rank acquired by the performance, on my part, of the contract—when I made that contract with the Secretary *bona fide*, and knew nothing of the instructions the President gave him.

4. The charges of the alleged misconstruction of my authority, and that I had to raise my troops “abroad,” are erroneous. They are conclusively refuted by the letter I addressed to the Secretary of War, the next day after the date of that authority, (page 13, exhibit 4 of the memorial,*) and by the official telegraphic correspondence with him, held during the raising and organizing of my brigade, (pages 15 and 16, exhibit 6 of the same memorial, and page 4 of the subsequent correspondence printed by order of the House, of January 15, 1864.†)

5. The Secretary of War admitted the justness of my *money claim* in his letters of February 17th, and March 4th, 1863, (page 4, of the printed correspondence by order of the House, of January 15, 1864,†) refusing to pay it, *solely because he “has no authority to pay claims*

*Pages 5 and 6 of this memorial.

†Pages 8 and 26 of this memorial.

†Page 29 of this memorial.

accord 30.

where no commission has been issued." The President also has admitted my right to it, by directing the Secretary of War to take notice of the same as it "shall be found to relate to any object for which the funds of his department are applicable." (Page 13 of the record printed by order of the House, of December 10, 1864:*) The subsequent reasoning of the Secretary of War, that "no pecuniary claim could arise against the department, unless from a commission issued, and as that of brigadier general was not conferred, no power to pay of such office or its equivalent can exist," cannot stand the test of the law in this case, when it is proved that the commission is withheld without any fault attributable to me, and in violation of the contract fully performed on my part; and when my troops have been accepted, and are in the service of the Confederate States. "No man can take advantage of his own wrong done to another man," and this rule applies with the same force to Governments. The laws of the land vesting the appointing power in the Executive exclusively, and reserving no other controlling power but the approval or rejection of the appointments by the Senate, there is no authority to compel the President to comply with that contract and issue my commission; but his withholding it from me, in violation of that contract, does not bar my right to the salary and commutation attached to brigadier's commission, when *these* are but a *consideration* due me for the performance of my part of the contract. The law is settled that when A stipulates for B's services for a stated period, and then discharges him before that period—without reason—to suit his arbitrary whim, or imaginary advantage, or even any supposed true or mistaken policy, he must pay B's wages, in full, for the whole period of stipulated service. If he refuses, the court of law will compel him to do it, by adjudicating *them* to B as damages; and it will give B from A the costs *too*, for breaking the contract. It is submitted that my case is even stronger, for the salary and commutation attached to brigadier's commission, to which I acquired a *perfect right* by performing my part of the contract, are intended not only to pay the services, but also to compensate me for the expenses and losses to which the undertaking to raise my troops has subjected me, there being no provision made for refunding them in the act of Congress No. 109, approved May 8, 1861, under the authority of which the Secretary of War stipulated for raising the troops I did raise.

6. Though I have an undoubted right to the salary and commutation of brigadier general for three years, (it being the period for which I raised my troops, and *they* being in the service of the Confederate States,) I would waive this right should Congress choose to refund me the actual expenses I incurred in raising those troops, in such currency as I bore or disbursed them: making \$5,925 in gold, and \$1,600 in the treasury notes of the Confederate States. But, I submit, that considering the expected commission of Brigadier General and the salary and commutation attached to it to be my only legitimate consideration for services and *disbursements or expenses in-*

*curred in my undertaking to raise these troops, I did not keep any account of those disbursements, not expecting to have ever this difficulty in obtaining that legal and legitimate consideration to which the contract and the law give me the absolute right; I am not prepared, therefore, to prove these disbursements by specifying their items and by supporting them by the vouchers. But, that their gross sum, as stated above, is true and correct, I pledge my word, and I am ready to affirm it by the oath, if required. It is hoped that this *secondary evidence* will be accepted, when I have been debarred from collecting the *primary* by the disappointed confidence in dealing with me, which it was impossible to foresee. If it is rejected, I beg for that consideration to which the performance of the contract, on my part, gives me the right—to-wit: the brigadier's salary and commutation for three years.*

7. My withdrawing from the service cannot be construed as resignation, for, my *regular* commission not being issued, I could not resign what I did not possess. The refusal of the President to issue and give me my *regular* commission drove me out of the service; of course I withdrew, but I never surrendered the right to claim what is due to me.

8. I beg for a special act for my relief on the ground that the Court of Claims has not been yet created, and because I am preparing to leave this country to assist my native land, Poland, in her struggle for independence.

Mr. Chairman, on page 38 of the memorial* you will find a document which will show you that the Polish Democratic societies in France and England disapproved my taking part, in this war, with the Confederate States. My answer to their resolutions disapproving it was received satisfactorily to me, and has done some good to the cause of the Confederate States. But, as a distant people is apt to attribute the persecutive policy of a foreign government to the character of the people represented by such government, I kept from their knowledge the President's continued hostility to me without cause. The following is the closing part of my answer to these Polish Democratic societies:

* * * “The causes of my siding with the Southern Confederacy are those of the masses of the Southern people—to save the principles upon which the Constitution of the United States was built up, when the Union could not have been saved—and with them I will swim or sink.

“I enclose and send you two speeches which I made; *first*, on the 16th of August, 1860, before the National Democratic Convention at Staunton, Va., as a member of that Convention; *second*, on the 24th of October, 1860, before the National Democratic Club in Washington, D. C. They will show you my fears, then, for the safety of the Union, and the humble, legitimate efforts which I joined with those who labored to save it.

“I enclose, also, copies of two letters; *first*, addressed to the Presi-

*Which was presented to Congress in January, 1863.

dent of the Confederate States on the 1st of May, 1861; *second*, to Mr. Seward, Secretary of State of the United States. You will learn from these letters that I left the Union and tendered my services to the Confederate States when President Lincoln inaugurated the war— which finally dispelled all hope, and left no shadow of probability of its restoration upon the constitutional basis.

"I have now to inform you that I am out of the Confederate States' service. I have withdrawn, and surrendered to the Government the troops raised by me on the 29th of July last. In proper time, I will send you all the correspondence with the War Department and the President of the Confederate States relating to the misunderstanding which led to this result. You will learn, then, that whilst I have been true to my allegiance here, I have not forgotten for a moment what was due to our beloved country and my honor.

"Accept, citizens, the assurances of regard,

"With sincere greeting of your faithful countryman,

"G. TOCHMAN."

From similar motives, I did not expose the details of their persecutive policy towards me before the public of this country. The newspapers' disapprovals of the treatment I met with were written without my knowledge, and, therefore, dwelt *only* upon the generalities of that treatment. Yet, Mr. Chairman, the injury to your cause resulting from this persecutive policy could not be averted, and it is very great. But for it, you would see me to-day, *probably*, at the head of a large army of foreign troops, under the designation of a Polish division, and, perhaps, of a corps. I had on my list over one hundred foreign officers who had to come from the North to co-operate with me. With them, under the protection of the Polish brigade I raised in Louisiana, I could have raised in Missouri alone a large army of Germans. The thirty or forty thousand Germans of Missouri who are now fighting against you, would be under my command on your side. You would have no reason to complain against the indifference of foreigners. They wanted a leader of their own; but not a Prince, whose family's antecedents are not endeared to the progressive liberal part of the European people, and might, *probably*, have contributed to causing this change in the disposition of the Emperor of the French towards the Confederate States which we now witness. Had not my brigade been dissolved; had these foreign troops, under my command, been encouraged and allowed to grow, the mere influence arising out of their existence, under the command of a Polish veteran, would have checked the enlistment of foreigners in the Federal army; it would have been your best *propaganda* to induce the European people to study the merits of your cause, and to gain you this public opinion *abroad* you so need to obtain the recognition of your independence. All these advantages are irretrievably lost. But there is yet time to gain a great deal, if you are just to the friendly foreigners; and a juster case of a foreigner, apparently of a private character, in which, nevertheless, honor, honesty, self-interest

of the country, and its *true* foreign policy are involved, was ^{seldom} brought before the bar of the representatives of any other nation.

G. TOCHMAN.

Filed with the Committee on Claims of the House of Representatives, January 27, 1864.

(EXHIBIT No. 9.)

AFFIDAVIT.

STATE OF VIRGINIA, }
City of Richmond, } To-wit:

Before me, J. S. Williams, notary public for the city of Richmond, in the State of Virginia, on the 29th day of January, 1864, personally appeared General G. Tochman, a native of Poland, who, after being sworn according to law, made the following affidavit, to-wit: That shortly after the troubles, which resulted in this war, had commenced, the affiant left Washington, D. C., where he then resided, repaired to Montgomery, Alabama, and tendered his services to the Confederate States. That the affiant's services were accepted by the President by endorsing on his papers "appointed colonel, May 11, 1861;" and subsequently the Secretary of War stipulated with the affiant for raising a regiment, and, if practicable, a brigade of two regiments, of persons of foreign birth, for the affiant's own command, to be enlisted for the war, allowing the affiant to accept also the services of such natives as would desire to serve under his command. That it was understood, at the time of that stipulation, between the Secretary of War and the affiant that his commission was to be issued after the troops were raised: of colonel should he raise one regiment, and of brigadier general should he raise a brigade. That the affiant relying, *bona fide*, upon that agreement, accepted the authority to raise these troops, and did raise a brigade of one thousand seven hundred men strong in the ranks, exclusive of the officers; in which there were one thousand four hundred and fifteen persons of foreign birth in the ranks, and *four* amongst the officers. That in raising these troops, the affiant incurred considerable expenses; in employing agents to procure the men and raise companies; in extending hospitalities to those friends who assisted him in this undertaking; in distributing small sums for tobacco, &c., amongst some of the enlisted men; for his own support and other expenditures usually connected with such undertakings. But the affiant saith: that considering the expected regular commission of brigadier general and the stipends and commutation which the law attaches to it, to be his legitimate consideration for his services and those disbursements; and, therefore, never expecting to have a liquidation with the Government for their return, he did not keep any account of these expenses or disburse-

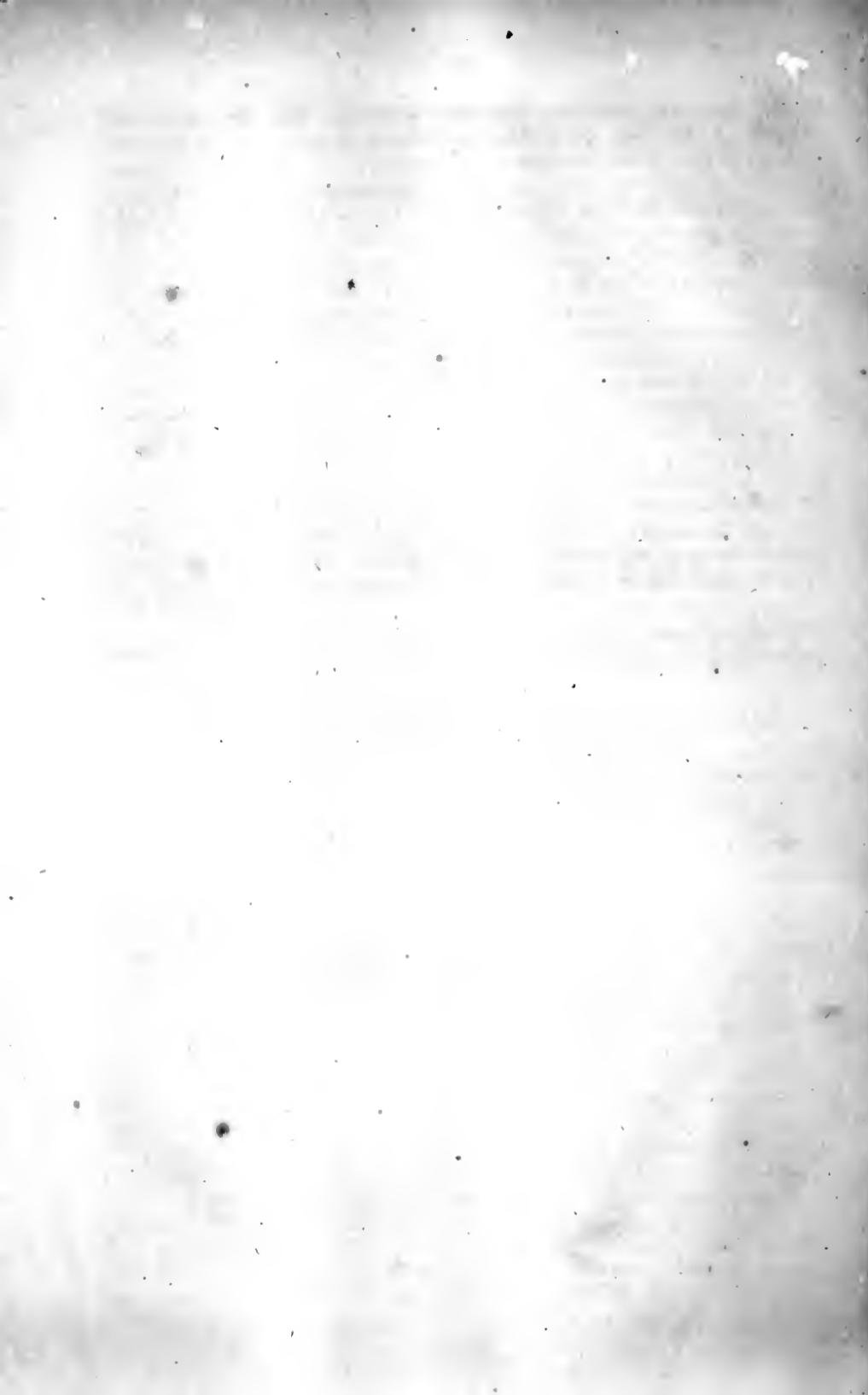
ments; he is not, therefore, prepared to specify them by items and support by vouchers. But the affiant affirms that their gross amount makes the sum of five thousand nine hundred and twenty-five dollars (\$5,925) in gold and other currency of equal value, and sixteen hundred dollars (\$1600) in the currency of the Confederate States, not counting, or including, the heavy losses in property which the affiant left in the United States—such as arise from the separation from his family for nearly three years—and from the abandonment of his clientel; for which losses the affiant claims nothing, considering them as the result of the ordinary incidents of the war. The affiant further saith: that he considers himself to be legally entitled, *only*, to the salary and commutation attached to brigadier's commission, which he believes and avers is withheld from him in violation of the contract the Secretary of War stipulated for with him. But the affiant waives his right to such salary and commutation, *should* Congress prefer to refund him his above stated expenses in such currency as he bore and paid them. And for this purpose he has made this affidavit, at the request of the Committee on Claims of the House of Representatives, before which his case for the recovery either of brigadier's salary and commutation, or of his expenses, is now pending.

G. TOCHMAN.

Sworn to and subscribed before me, at Richmond, Virginia, this 29th day of January, 1864.

J. S. WILLIAMS, *Notary Public.*

Filed with the Committee, January 29, 1864.



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